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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,593	11/10/2006	Carsten Momma	117163.00150	2507

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EXAMINER	
HIGGINS, GERARD T	
ART UNIT	PAPER NUMBER
1785	

NOTIFICATION DATE	DELIVERY MODE
04/27/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hahnlaw.com
akron-docket@hotmail.com

Office Action Summary	Application No.	Applicant(s)	
	10/552,593	MOMMA ET AL.	
	Examiner	Art Unit	
	GERARD T. HIGGINS	1785	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 January 2011*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,9,11,12 and 20-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,9,11,12 and 20-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/06/2011 has been entered.

Response to Amendment

2. The amendment filed 01/06/2011 has been entered. Currently claims 1-6, 9, 11, 12, and 20-24 are pending and claims 7, 8, 10, and 13-19 are cancelled.

Drawings

3. The drawings were received on 01/06/2011. These drawings are acceptable.

Claim Objections

4. Claims 1-6, 9, 11, 12, and 20-24 are objected to because of the following informalities:

In claims 1, 3-6, 9, 11, 12, and 21-24, the phrase “A stent” is objected to grammatically. The objection can be overcome by changing the phrase to “The stent” which is how the claims will be interpreted.

In claim 2, the phrase “filling and completely enclosed by a cover layer” is objected to grammatically. The objection can be overcome by changing the limitation to “filling the interior and completely enclosed by a cover layer” which is how the claim will be interpreted.

In claim 20, the phrase “and including the titanium-nickel alloy and together” is objected to grammatically. The objection can be overcome by changing the phrase to “, wherein the cover layer includes the titanium-nickel alloy, and together" which is how the claim will be interpreted.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. Claims 2, 5, 6, 9, 12, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kranz et al. (6,312,456).

With regard to claims 2, 5, 6, 9, and 22-24, Kranz et al. disclose the stent of Figure 1.

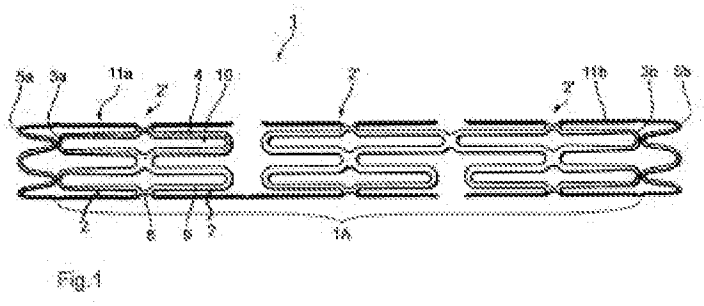


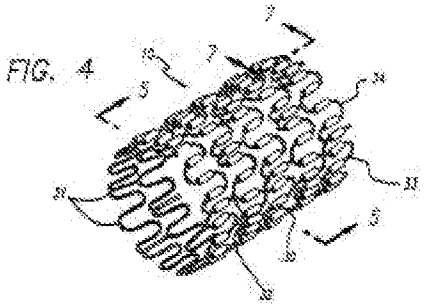
Fig.1

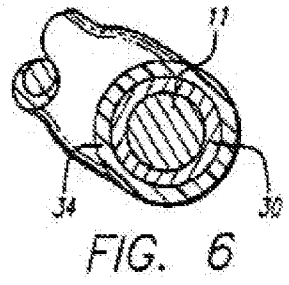
The stent **1** has a hollow-cylindrical base body **1A** made from titanium that is produced from hollow-cylindrical tube rounds, which reads on applicants' partially radiolucent carrier structure (col. 2, lines 38-42 and col. 3, lines 23-26). The web-like elements **9** (also frontal mesh curve **3a**) form a ring-shaped design that reads on applicants' plurality of legs (col. 3, lines 28-31). There is an X-ray opaque thread **5a** welded onto the end of the cylinder (col. 3, lines 46-51). The entire structure can be covered in a silicon carbide coating (col. 2, lines 51-54) which means the radiopaque material is the core of a wire with the SiC being the cover layer, and since the SiC is covering the entire stent it is also a material that is also included in the carrier structure.

With regard to claim 12, the X-ray opaque material can be gold (col. 2, lines 32-37).

6. Claims 2-4, 9, 11, 12, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Callol et al. (EP 1290984).

With regard to claims 2-4, 9, 11, 12, and 22-24, Callol et al. disclose forming a radiopaque material on a stent as in Figures 4 and 6.





The stent **10** is coated with a partial radiopaque layer **30** on the struts **33**, which read on applicants' partially radiolucent carrier structure comprising a cut out metal tube with legs defining a mesh, wherein a plurality of the legs form a leg ring [0041] and [0050]. The entire stent then may be coated with a protective layer **34** or only the portions where the radiopaque layer is placed [0051]-[0052]. The carrier structure may be nickel-titanium alloy [0013] and the radiopaque layer may be gold [0053], and the protective layer may be a metallic material different from the radiopaque layer [0020]. The radiopaque layer may be welded to the strut [0011] and it may cover any part of the stent [0053]. The fact that the radiopaque layer is completely enclosed and fills the interior of the protective layer means that it reads on a core filled wire as claimed.

Claim Rejections - 35 USC § 103

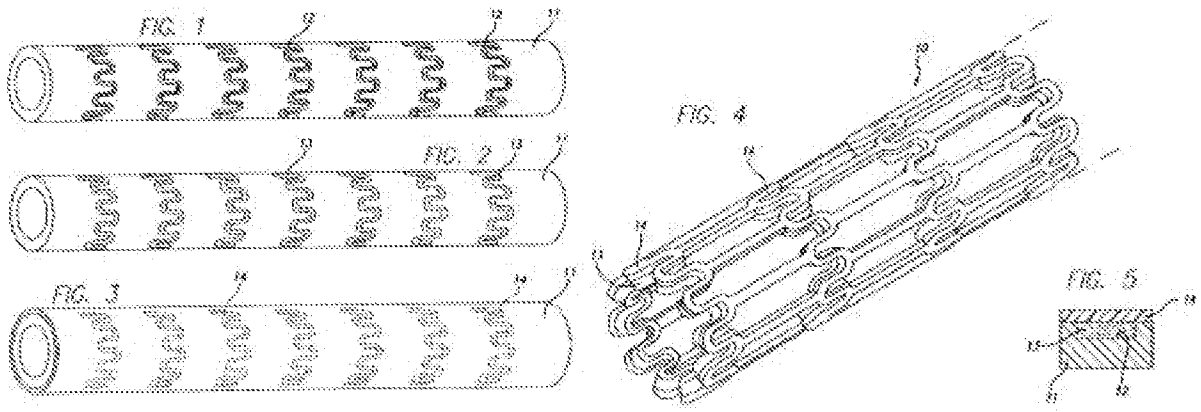
7. Claims 1-4, 6, 9, 11, 12, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dang (6,471,721).

The Examiner again notes the presence of product-by-process limitations in applicants' claims. It has been held that "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the

product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." Please see MPEP 2112 and *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

The Examiner notes that any article that has the resultant structural limitations despite being formed by a different process will be held to read on the claimed article. The limitation regarding the fact that the carrier structure comprises "a cut out metal tube including legs defining a mesh" is a product-by-process limitation because the carrier structure is an intermediate in the final formation of the stent. The fact that the stent has "at least one marker element welded to at least one leg" is a product-by-process limitation in that the resultant article could have marker elements as any number of the legs (see Figure 1 and [0022]). Additionally, the fact that the comparatively radiopaque material is "filling and completely enclosed by a cover layer" implies that a hollow wire was filled with material; however, if an article is found that comprises a core of comparatively radiopaque material and a cover layer of a metal or metal compound other than the comparatively radiopaque material it will be held to anticipate the claim. Additionally, the limitations of claim 21-23 are also product-by-process limitations.

With regard to claims 2 and 22, Dang discloses the device of Figures 1-5.



The stent **10**, which reads on applicants' product-by-process limitations of a "carrier structure comprising a cut out metal tube including legs defining a mesh, and having at least one marker element welded to at least one leg", comprises a radiolucent material, i.e. "difficult to visualize fluoroscopically" (col. 3, lines 22-31 and col. 5, lines 12-23). The stent is produced from a cut out metal tube stock **11** (see Figure 1). The device may have radiopaque material **13**, which reads on applicants' comparatively radiopaque material, incorporated therein (col. 5, lines 38-41). Please note from Figures 1-3 that the radiopaque material is incorporated in cylindrical cut grooves **12** around the circumference of the tube stock (Figure 1-3). The cylindrically cut grooves are then covered over with the sputtered coating **14**. The tube stock **11**, with the cylindrically cut grooves **12**, filled with radiopaque material **13**, and then covered over with the sputtered coating **14** read on applicants' at least one marker element or core filled wire. The marker elements are attached to the rest of the stent **10** (Figure 4). The radiopaque material **13** is completely enclosed by the tube stock **11** and the sputtered coating **14**, which together (**14** and **11**) read on applicants' cover layer. The material for the tube stock and the sputtered coating include metals and metal alloys (col. 5, lines 14-20 and

col. 6, lines 9-11); however, the stent of Dang does not have legs defining a mesh or a leg ring formed from a plurality of legs.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed the radiopaque material in any number of circumferential sections of the stent, including less than all of the circumferential sections. This means it would have been obvious to one having ordinary skill to have formed the radiopaque portions only on two end portions or only in the middle of the stent. The rationale is that less radiopaque material would need to be used, which would save money as the radiopaque material would be gold. If only the two end sections of the stent had the radiopaque material, these would read on the marker elements and the central section would have the legs defining the mesh and the plurality of legs forming leg rings as claimed.

Although formed by a different process, i.e. forming grooves **12**, filling with radiopaque material **13** and covering over with the sputtered coating **14**, the cover layer (**14** and **11**) has the same resultant structure as a hollow wire into which the radiopaque material fills the core thereof as claimed.

With regard to claims 21-23, although formed by a different process, the resultant stent has marker elements that read on the marker elements welded into an aperture produced by the removal of a leg of claim 21. The cylindrical parts of the stent that go around the circumference of the stent read on applicants' at least one leg ring formed from a plurality of legs of claim 22 as rendered obvious above.

With regard to claim 1, considering the disclosure at col. 5, lines 14-20 and col. 6, lines 9-11, the Examiner deems that Dang disclose forming both the tube stock **11** and the sputtered coating **14** from nitinol, which is a titanium-nickel alloy. The Examiner provides as a basis for this finding the disclosure at col. 6, lines 9-11, which talks about the sputtered coating **14**, and states "[w]hile one preferred material for the sputtering is 316L stainless steel, other suitable material can be also used." The disclosure at col. 5, lines 14-20 states that the preferred material for the tube stock **11** "is 316L stainless steel, although other materials such as…nitinol…can be used." The Examiner deems that the "other suitable material" mentioned for the sputtering **14** includes all the alternative materials mentioned for the tube stock **11**, including nitinol.

With regard to claims 3, 4, and 11, the device may be comprised of nitinol, which is a nickel-titanium alloy (col. 3, lines 22-30). The device can be self-expanding as taught by Dang at col. 1, lines 24-26, where they state that the stent may be deployed "automatically by the removal of a restraint." Nitanol is inherently a shape memory metal as claimed.

With regard to claim 6, the Examiner has discussed with regard to claim 2 how the tube stock **11** and the sputtered coating **14**, which together (**14** and **11**) read on applicants' cover layer, and that longitudinal sections of the stent **10** spanning the distance between the cylindrical marker elements are apart of and also read on applicants' carrier structure. The marker element and the carrier structure are formed from the same materials, i.e. parts **14** and **11**. Also the marker elements are clearly attached to the carrier structure by way of parts **14** and **11** and therefore the stent of

Dang meets the limitation that the "marker element is attached to the carrier structure at the cover layer."

With regard to claims 9 and 24, the radiopaque material is incorporated as the cylindrical marker elements as seen in Figures 1-4. It is clear from the Figures that the cylindrical marker elements at the two longitudinal ends of the stent **10** are attached to the carrier structure in a region of a longitudinal end of the stent. It is also clear that the marker elements make up the end portion of the stent.

With regard to claim 12, Dang discloses at col. 5, lines 41-44 that the radiopaque material may be gold or platinum.

With regard to claim 20, the Examiner has discussed the structure of the stent with regard to claim 2 above. The stent of Dang is designed to be placed into a patient as that is what stents are designed to do; furthermore, Dang discloses at col. 1, lines 14-27 that stents are particularly adapted to be implanted into a patient's body.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dang (6,471,721) as applied to claim 2, in view of Kranz et al. (6,312,456).

With regard to claim 5, Dang discloses all of the limitations of applicants' claim 2 in section 7 above, and it also discloses at col. 6, lines 56-57 that a biocompatibility layer may be added; however, it fails to disclose that the biocompatibility layer contains silicon carbide.

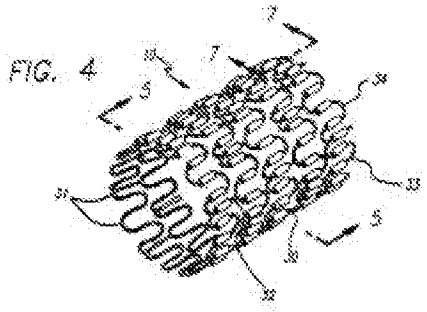
Kranz et al. disclose at col. 2, lines 51-54 that silicon carbide is used as an outer coating layer on the biocompatible stent and counteracts thrombosis formation; further,

at col. 4, lines 27-30 that the silicon carbide is used as an outer covering to avoid stenosis.

Since Dang and Kranz et al. are both drawn to stents, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the silicon carbide outer covering layer of Kranz et al. as the biocompatibility layer of Dang. The motivation for doing so has been stated above and includes *inter alia* counteracting thrombosis formation; further, the overcoating of silicon carbide on the device of Dang would produce a stent that had a multilayered covering layer, and as such would still include the nitinol cover (a metal or metal compound) as well as the additional layer of silicon carbide.

9. Claims 1 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callol et al. (EP 1290984).

With regard to claims 1 and 20, Callol et al. disclose forming a radiopaque material on a stent as in Figures 4 and 6 used to treat a patient [0012].



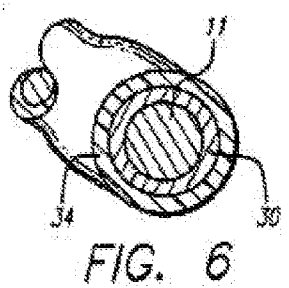


FIG. 6

The stent **10** is coated with a partial radiopaque layer **30** on the struts **33**, which read on applicants' partially radiolucent carrier structure comprising a cut out metal tube with

legs defining a mesh, wherein a plurality of the legs form a leg ring [0041] and [0050]. The entire stent then may be coated with a protective layer **34** [0051]. The carrier structure may be nickel-titanium alloy [0013] and the radiopaque layer may be gold [0053], and the protective layer may be a titanium alloy [0020]. The radiopaque layer may be welded to the strut [0011]. The fact that the radiopaque layer is completely enclosed and fills the interior of the protective layer means that it reads on a core filled wire as claimed; however, Callol et al. does not specifically teach making the protective layer from a nickel-titanium alloy.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the same titanium-nickel alloy, i.e. nitinol, as was used to form the carrier structure to form the protective layer. The rationale to use the same material is that it would save on costs in producing the stent as the same material for the carrier structure was being used for the protective layer.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Callol et al. (EP 1290984) as applied to claim 2, in view of Kranz et al. (6,312,456).

With regard to claim 5, Callol et al. disclose all of the limitations of claim 2 in section 6 above; however, they do not specifically teach using a silicon carbide layer.

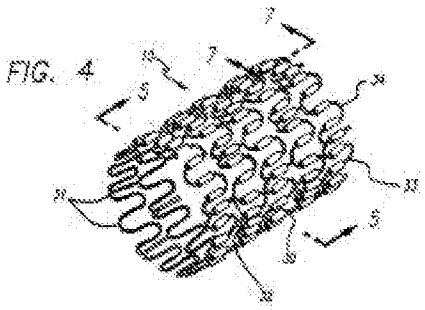
Kranz et al. disclose at col. 2, lines 51-54 that silicon carbide is used as an outer coating layer on the biocompatible stent and counteracts thrombosis formation; further, at col. 4, lines 27-30 that the silicon carbide is used as an outer covering to avoid stenosis.

Since Callol et al. and Kranz et al. are drawn to stents; it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined in the silicon carbide outer covering layer of Kranz et al. as a further protective layer in the stent of Callol et al. The motivation for doing so has been stated above and includes *inter alia* counteracting thrombosis formation.

11. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kranz et al. (6,312,456) as applied to claim 2, in view of Callol et al. (EP 1290984).

With regard to claim 1, Kranz et al. disclose all of the limitations of claim 2 in section 5 above; however, they do not specifically teach using a titanium-nickel alloy in the cover layer.

Callol et al. disclose forming a radiopaque material on a stent as in Figures 4 and 6.



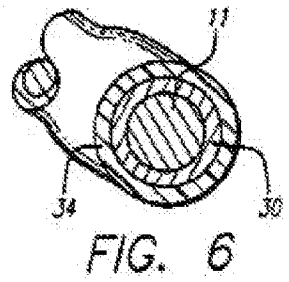


FIG. 6

The stent **10** is coated with a partial radiopaque layer **30** on the struts **33**, which read on applicants' partially radiolucent carrier structure comprising a cut out metal tube with legs defining a mesh, wherein a plurality of the legs form a leg ring [0041] and [0050]. The entire stent then may be coated with a protective layer **34** [0051]. The carrier

structure may be nickel-titanium alloy [0013] and the radiopaque layer may be gold [0053], and the protective layer may be a titanium alloy [0020]. The radiopaque layer may be welded to the strut [0011]. The fact that the radiopaque layer is completely enclosed and fills the interior of the protective layer means that it reads on a core filled wire as claimed.

Since Kranz et al. and Callol et al. are drawn to radiopaque marking of stents; it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the carrier structure of Kranz et al. from nitinol and to have covered the entire carrier structure with a titanium alloy as taught by Callol et al.; furthermore, it would have been obvious to one having ordinary skill to have used the same titanium-nickel alloy, i.e. nitinol, as was used to form the carrier structure to form the protective layer. The rationale to use the protective layer is to prevent the radiopaque layer and the elongated tubular body from galvanic corrosion and to protect the layers from mishandling [0012]. The rationale to use the same material is that it would save on costs in producing the stent as the same material for the carrier structure was being used for the protective layer.

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kranz et al. (6,312,456) in view of Callol et al. (EP 1290984).

With regard to claim 20, Kranz et al. disclose the stent of Figure 1.

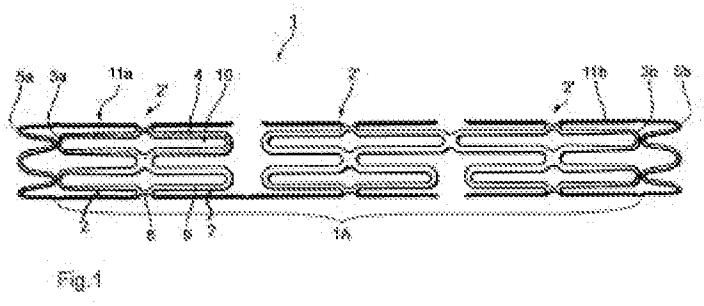


Fig.1

The stent **1** has a hollow-cylindrical base body **1A** made from titanium that is produced from hollow-cylindrical tube rounds, which reads on applicants' partially radiolucent carrier structure (col. 2, lines 38-42 and col. 3, lines 23-26). The web-like elements **9** (also frontal mesh curve **3a**) form a ring-shaped design that reads on applicants' plurality of legs (col. 3, lines 28-31). There is an X-ray opaque thread **5a** welded onto the end of the cylinder (col. 3, lines 46-51). The X-ray opaque material can be gold (col. 2, lines 32-37). A stent will intrinsically be implanted into a patient to treat them as that is what stents are intended to perform; however, they do not disclose that the carrier structure is a nitinol alloy or that the cover layer is a nickel-titanium alloy.

Callol et al. disclose forming a radiopaque material on a stent as in Figures 4 and 6.

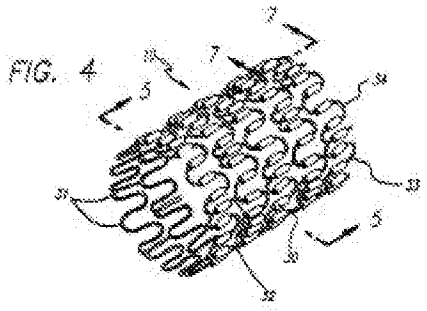


FIG. 4

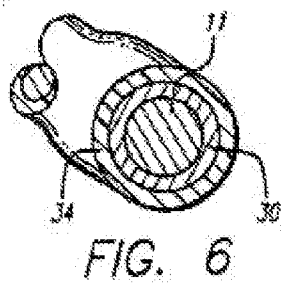


FIG. 6

The stent **10** is coated with a partial radiopaque layer **30** on the struts **33**, which read on applicants' partially radiolucent carrier structure comprising a cut out metal tube with

legs defining a mesh, wherein a plurality of the legs form a leg ring [0041] and [0050]. The entire stent then may be coated with a protective layer **34** [0051]. The carrier structure may be nickel-titanium alloy [0013] and the radiopaque layer may be gold [0053], and the protective layer may be a titanium alloy [0020]. The radiopaque layer may be welded to the strut [0011]. The fact that the radiopaque layer is completely enclosed and fills the interior of the protective layer means that it reads on a core filled wire as claimed.

Since Kranz et al. and Callol et al. are drawn to radiopaque marking of stents; it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the carrier structure of Kranz et al. from nitinol and to have covered the entire carrier structure with a titanium alloy as taught by Callol et al.; furthermore, it would have been obvious to one having ordinary skill to have used the same titanium-nickel alloy, i.e. nitinol, as was used to form the carrier structure to form the protective layer. The rationale to use the protective layer is to prevent the radiopaque layer and the elongated tubular body from galvanic corrosion and to protect the layers from mishandling [0012]. The rationale to use the same material is that it would save on costs in producing the stent as the same material for the carrier structure was being used for the protective layer.

13. Claims 3, 4, 11, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kranz et al. (6,312,456) as applied to claim 2, in view of Flanagan (WO 01/45578).

Kranz et al. teach all of the limitations of claim 2 in section 5 above; however, they do not disclose that the carrier structure is a nitinol alloy or a marker element is welded into an aperture created by cutting out a leg.

Flanagan teaches in Figures 6 and 2B making a weld **50** of a radiopaque marker **32** made of a second metal **22** to the first metal **20** that makes up the stent **31** (page 11, lines 5-11).

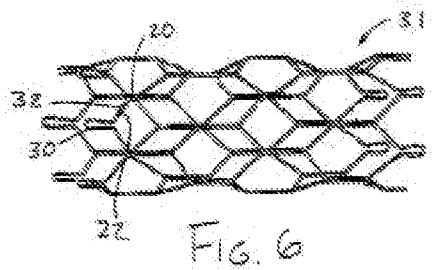


FIG. 6

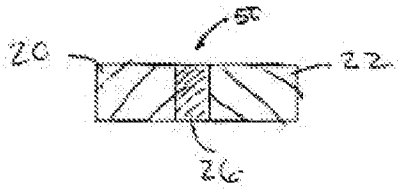


FIG. 2B

The first metal may be nitinol, which is a titanium-nickel alloy shape memory metal that would be capable of self-expanding, and the second metal may be gold (page 7, lines 6-9). This reads on applicants' marker element welded into an aperture created by cutting out a leg.

Since Kranz et al. and Flanagan are drawn to radiopaque marking of stents; it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the carrier structure of Kranz et al. from nitinol and to have welded a gold marker element into the stent as shown by Flanagan. The rationale to use this welded type structure is that it provides a strong bond and prevents movement of the marker when the stent is deployed (page 11, lines 12-22). The resultant structure would then be coated with the silicon carbide coating as taught by Kranz et al. to

prevent thrombosis formation, and the gold radiopaque marker coated by SiC would remain a core filled wire as claimed.

Response to Arguments

14. Applicant's arguments, see Remarks, filed 01/06/2011, the objection to the drawings and the rejection of 24 under 35 USC 112, first paragraph have been fully considered and are persuasive. The relevant objections/rejections have been withdrawn.

15. The Declaration under 37 CFR 1.132 filed 01/06/2011 is insufficient to overcome the rejection of claims 1-6, 9, 11, 12, and 20-24 based upon Dang as set forth in the last Office action because of two reasons.

First, applicants' Declaration is based upon opinion evidence. As seen in points 6 and 7, it is applicants' opinion is that there will be a seam formed due to the sputter coating; however, there is no evidence to establish this to be the case. Given the fact that this is the ultimate legal issue in question, factual evidence supporting the applicants' position is required. Please see MPEP 716.01(c)(III).

Second, there is no nexus between the claimed invention and applicants' Declaration. As seen in points 6 and 7, applicants' state that their invention is different due to how it is manufactured. Specifically, they state that it is formed by "extruding a cover layer around a radiopaque core"; however, these limitations are not in applicants'

claims; furthermore, applicants have no support in their specification as originally filed to claim as such.

16. Applicant's arguments filed 01/06/2011 have been fully considered but they are not persuasive.

First, it is noted that new rejections have been placed on the record based upon Callol et al., Flanagan, and Kranz et al. These references do not have the product-by-process issues that are the legal issue of Dang.

Applicants' arguments on pages 8-10 of their Remarks as they apply to the legs and marker elements and how they define an aperture or a mesh are moot in view of the fact that Dang is now an obviousness rejection to meet these elements.

Applicants' argue on page 9 of their Remarks that "marker elements that are integral to the carrier structure…do not read on the claims".

The Examiner respectfully disagrees and notes that this is exactly what is happening with regard to claim 21; furthermore, marker elements are shown to be integral to the stent in Figure 1, see **22**.

Applicants argue that the Examiner "has not pointed out any element of Dang that corresponds to a weld".

Dang describes that the radiopaque may be laser bonded (col. 5, lines 38-46). This reads on welding.

The Examiner also notes that Flanagan, Kranz et al. and Callol et al. all explicitly teach welding.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Examiner has cited US 5800511 which teaches making clad composites stents with a core of gold and a case that could be an alloy of titanium and nickel (see claims 32 and 34).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GERARD T. HIGGINS whose telephone number is (571)270-3467. The examiner can normally be reached on M-F 10am-8pm est. (Variable one work-at-home day).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Ruthkosky can be reached on 571-272-1291. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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